
OPINION OF THE PUBLIC ACCESS COUNSELOR

RONALD P. COLPITTS,
Complainant,

v.

TOWN OF NEW CARLISLE,
Respondent.

Formal Complaint No.
18-FC-49

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Town of New Carlisle town council (Council) violated the Open Door Law¹ (ODL). Attorney Andrea E. Halpin filed a response on behalf of the Council. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on March 22, 2018.

¹ Ind. Code §§ 5-14-1.5-1 to -8

BACKGROUND

This case involves a gathering of three members of the New Carlisle Town Council (“Council”) after the conclusion of Council’s regular meeting on March 13, 2018.

Ronald P. Colpitts (“Complainant”) alleges that this congregation—and discussion—constitutes a violation of the Open Door Law (“ODL”). Specifically, Colpitts asserts that the council members continued to discuss what appeared to be Town business out of the public’s view for approximately 15 minutes after adjournment of the meeting. Further, Colpitts states that such gatherings appear to be a “normal occurrence.”

Although the Council does not deny that the three members gathered together following the conclusion meeting, it disputes that an ODL violation occurred. The Council argues that Colpitts failed to allege a specific violation of the ODL by merely asserting the council members were in the same room following a meeting. Further, the Council argues that the ODL’s definition of meeting excludes social or chance gatherings not intended to circumvent the law.

ANALYSIS

At issue in this case is whether the simultaneous gathering of three member of the New Carlisle Town Council after adjournment of the council’s regular meeting constitutes a violation of the Open Door Law.

1. The Open Door Law (ODL)

It is the intent of the Open Door Law (“ODL”) that the official action of public agencies be conducted and taken openly,

unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

The parties do not dispute that the Town of New Carlisle (Town) is a public agency for purposes of the ODL; and thus, subject to the law's requirements. Ind. Code § 5-14-1.5-2. In addition, the parties do not dispute that the New Carlisle Town Council is a governing body of the Town for purposes of the ODL. *See* Ind. Code § 5-14-1.5-2(b).

As a result, unless an exception applies, all meetings of the Council must be open at all times to allow members of the public to observe and record.

1.1 Meetings of the Governing Body

Generally, under the ODL, every meeting of the governing body of a public agency must be open at all times for the purpose of permitting members of the public to observe and record. Ind. Code § 5-14-1.5-3. Under the ODL, a *meeting* is:

[A] gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business.

Ind. Code § 5-14-1.5-2(c). The Council has five members. So, a gathering of three members for the purpose of taking

official action upon public business will trigger the requirements under the ODL. More on the *official action* and *public business* requirements in moment.

Here, Colpitts contends the Council violated the ODL when three of its members —indeed a majority of the governing body—gathered after adjournment of a regular council meeting and continued discussing town business. The Council does not dispute that a conversation occurred, but insists that the exchange did not amount to taking official action on public business.

The legislature statutorily defined *meeting* and that definition expressly excludes eight specific instances. One such exclusion is a chance or social gathering. *See* Ind. Code § 5-14-1.5-2(c)(1).

A conversation involving a majority of a governing body only rises to the level of a public meeting if official action is taken on public business. Conversations regarding social or private business is not public business and therefore not subject to the Open Door Law. Colpitts has not offered any substantive proof that public business was being discussed; only speculation and suspicion prompted the complaint.

Indeed, this Office reminds sitting board and council members to be mindful of public perception, however, the Open Door Law does not prohibit fellowship or dialogue between a majority of governing body members so long as public business is not being discussed.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the New Carlisle Town Council did not violate the Open Door Law.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor